

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

DOCKET FILE COPY ORIGINAL

RECEIVED

MAY 15 1997

In the Matter of)

Telephone Number Portability)

To: The Commission)

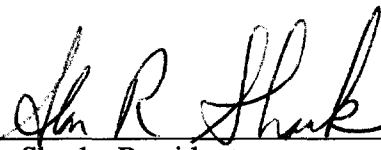
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY
CC Docket No. 95-105
RM-8535

PETITION FOR RECONSIDERATION

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.

By:


Alan R. Shark, President
1150 18th Street, N.W., Suite 250
Washington, D.C. 20036
(202) 331-7773

Of Counsel:

Elizabeth R. Sachs, Esq.
Lukas, McGowan, Nace & Gutierrez
1111 Nineteenth Street, N.W. - 12th Floor
Washington, D.C. 20036
(202) 857-3500

May 15, 1997

No. of Copies rec'd
List A B C D E

017

1. The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.429 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully requests reconsideration of one aspect of the Commission's First Memorandum Opinion and Order and Order on Reconsideration in the above-entitled proceeding.¹ In the Order, the Commission declined to alter the implementation schedule imposed earlier in this proceeding on Commercial Mobile Radio Service ("CMRS") providers subject to number portability requirements. Order at ¶ 134. Moreover, the Commission deferred until a subsequent order any action on the pending Petitions for Reconsideration urging the FCC to redefine which Specialized Mobile Radio ("SMR") Service licensees are to be classified as "covered SMRs" and, thereby, subjected to number portability requirements. Order at n. 427. As a result, a significant number of SMR operators that ultimately may be deemed exempt from the number portability requirement, in the interim, will need to undertake implementation of this highly complex and likely very costly system capability. Instead, the Commission should proceed immediately to address the pending Petitions for Reconsideration on this issue so that valuable resources are not expended unnecessarily by members of the SMR industry. The Commission also should extend the implementation schedule for any SMR providers that ultimately are determined to be subject to a number portability requirement to provide them with an implementation period equal to that allowed other CMRS licensees.

¹ First Memorandum Opinion and Order and Order on Reconsideration, CC Docket No. 95-116, FCC 97-74 (rel. March 11, 1997) ("Order").

I. BACKGROUND

2. In its First Report and Order in this proceeding, the FCC determined that it would impose number portability obligations on certain classes of CMRS operators.² It included as one such CMRS category "covered SMR providers",³ a term defined by the FCC in a number of recent proceedings to include 800 MHz and 900 MHz SMR licensees that hold geographic licenses and those who have obtained extended implementation authorizations, either by waiver or under Section 90.629 of the Commission's Rules, and that offer real-time, two-way switched voice service that is interconnected with the public switched network, either on a stand-alone basis or packaged with other telecommunications services.⁴

3. AMTA and other parties have petitioned for reconsideration of the FCC's decision to impose number portability obligations on covered SMR providers. Order at n. 427. These parties have noted that the definition of this category of licensee is overly broad and will include a significant number of entities the Commission explicitly intended to exclude from the requirement: "local SMR licensees offering mainly dispatch services to specialized customers in a non-cellular system configuration". *Id.* In light of the discrepancy between the actual

² First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No 95-116, 11 FCC Rcd 8352 at ¶ 155 (1996) ("First R&O"). The Commission was not required to subject CMRS providers to a number portability obligation since Congress excluded them from the definition of Local Exchange Carriers ("LECs"), the only entities statutorily obligated to implement number portability pursuant to 47 U.S.C. § 251(b)(2). *See*, Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) ("1996 Act"). The FCC elected to include CMRS providers based on the agency's general authority to carry out its functions and promote the public interest.

³ First R&O at ¶ 155.

⁴ *See, e.g., First Report and Order*, CC Docket No. 94-54, 11 FCC Rcd 18455 at ¶ 19 (1996).

wording of the covered SMR provider definition and the FCC's description of the entities intended to be included within that category in this and other proceedings, AMTA also has filed a Petition for Declaratory Ruling requesting that the Commission clarify this ambiguity by refining its definition in accordance with language proposed in that Petition.⁵ The FCC has not yet acted on that request, and, in this Order, has deferred until some unspecified "further order" a decision on this matter in respect to the number portability issue. As detailed below, AMTA respectfully submits that the SMR industry must be advised immediately regarding which of its members will be subject to a number portability obligation, and the deadline for meeting those obligations must be extended to reflect any further delays in making that determination.

II. THE TIME PERIOD TO IMPLEMENT NUMBER PORTABILITY PROVISIONS SHOULD RUN FROM THE DATE THAT THE FCC DETERMINES TO WHICH SMR OPERATORS THE OBLIGATION WILL APPLY

4. At the outset, the Association must reiterate its position that the vast majority of SMR operators included within the covered SMR provider definition were not intended by the FCC to be subject to the number portability requirements, and are incapable of meeting them. Unlike subscribers on cellular systems and the PCS systems implemented and proposed to date, only a relatively small percentage of SMR customer units are even capable of interconnection with the public switched network; most operate in a dispatch-only mode. Moreover, among those SMR systems that provide interconnect capability, only a small number of advanced, higher-capacity, consumer-oriented SMR systems assign individual telephone numbers to handsets. The majority of SMR stations are designed to allow those customer units with

⁵ AMTA Petition for Declaratory Ruling, CC Docket Nos. 94-54, 94-102, 95-116 and ET Docket No. 93-62, filed December 16, 1996.

interconnect capability to share a limited number of telephone numbers assigned to the SMR licensee itself. Thus, with only a few exceptions, SMR customers do not have individual telephone numbers to port.

5. Because interconnection typically is offered as an ancillary feature on all but the most technically-advanced SMR networks, most systems do not have, and have no intention of implementing, the components expected to be needed to permit the porting of numbers; i.e., SS7 signalling, AIN/IN to do database queries and responses, and AIN triggers.⁶ If all SMR licensees currently defined as covered SMR providers are required to conform to the number portability obligations, AMTA anticipates that the extraordinary cost and complexity of doing so will cause many to elect to eliminate their interconnection option and limit their service to dispatch-only operation. Those with contractual obligations to provide interconnection will have to determine whether their liability for breach is likely to be more or less costly than satisfying the FCC's number portability requirements.

6. AMTA remains convinced that the Commission never intended to impose such a Hobson's choice on the traditional SMR industry "offering mainly dispatch service to specialized customers in a non-cellular system configuration." Order at n. 2. The Association also is persuaded that the FCC does not intend to put those licensees in the position of having to begin the process of fundamentally revamping their systems and businesses to accommodate number portability until the Commission acts on the pending petitions for reconsideration in its

⁶ See Personal Communications Industry Association ("PCIA") Ex Parte Letter, CC Docket No. 95-116, filed March 12, 1996.

promised "further order", and determines which, if any, SMR providers should be required to assume CMRS number portability obligations.

7. The Commission already has acknowledged that the affected CMRS industry "...will face burdens comparable to wireline carriers in modifying their networks to implement number portability...." First R&O at ¶ 162. It has recognized that, "...while the wireline industry has already developed many of the standards and protocols necessary for wireline carriers to provide number portability, the CMRS industry is only beginning to address the additional standards and protocols specific to the provision of portability by CMRS carriers." Id. at ¶ 164. More recently, in response to requests to extend the CMRS implementation deadlines in light of those factors, the FCC has stated:

We find that a period of nearly two years is sufficient for wireless carriers either to implement the upgrades necessary to perform the database queries themselves, or to make arrangements with other carriers to provide that capability. We also believe it is reasonable to expect wireless carriers to implement long-term service provider portability, including roaming, in their networks in a period of more than two years. Order at ¶ 134.

8. It is uncertain at the moment whether the FCC's assessment of the time necessary for CMRS providers to satisfy their number portability obligations will prove accurate. However, it does appear clear that the task will be a formidable one -- technically, operationally and financially -- even for the most advanced, technologically sophisticated CMRS operators. If it can be accomplished within the time allotted, it likely will require the entire period. However, that period should not be considered to have begun to run for SMR operators until the FCC addresses the covered SMR provider definition raised on reconsideration in this and other proceedings, as well as in AMTA's Petition for Declaratory Ruling.

9. Unless the Commission "tolls" its implementation period while that determination is being made, entities currently included in the covered SMR provider definition may be forced to decide prematurely whether to proceed toward number portability implementation, with the attendant and possibly unnecessary costs, depending on the outcome of the FCC's decision, or to abandon their interconnection capability. In the Association's opinion, neither result would be in the public interest. Instead, AMTA urges the FCC to act expeditiously to resolve the covered SMR provider definition issue, and to toll the time period for SMR licensees to meet their number portability obligations until that decision is made.

III. CONCLUSION

10. For the reasons described above, AMTA urges the Commission to grant the relief requested herein.

CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, McGowan, Nace & Gutierrez, hereby certify that I have, on this 15th day of May, 1997, caused to be mailed a copy of the foregoing Petition for Reconsideration to the following:

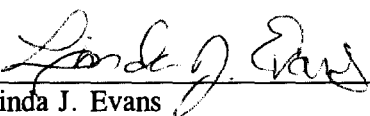
<p>* Chairman Reed E. Hundt Federal Communications Commission 1919 M Street, N.W., Room 814 Washington, D.C. 20554</p> <p>* Commissioner James H. Quello Federal Communications Commission 1919 M Street, N.W., Room 802 Washington, D.C. 20554</p> <p>* Commissioner Rachelle B. Chong Federal Communications Commission 1919 M Street, N.W., Room 844 Washington, D.C. 20554</p> <p>* Commissioner Susan Ness Federal Communications Commission 1919 M Street, N.W., Room 832 Washington, D.C. 20554</p> <p>* Dan Phytheon, Acting Chief Wireless Telecommunications Bureau Federal Communications Commission 2025 M Street, N.W., Room 5002 Washington, D.C. 20554</p> <p>* Gerald Vaughan, Deputy Chief Wireless Telecommunications Bureau Federal Communications Commission 2025 M Street, N.W., Room 5002 Washington, D.C. 20554</p> <p>* Rosalind K. Allen, Deputy Chief Wireless Telecommunications Bureau Federal Communications Commission 2025 M Street, N.W., Room 5002 Washington, D.C. 20554</p>	<p>* Karen Gulick, Associate Bureau Chief Wireless Telecommunications Bureau Federal Communications Commission 2025 M Street, N.W., Room 5002 Washington, D.C. 20554</p> <p>* David Furth, Chief Commercial Wireless Division Wireless Telecommunications Bureau Federal Communications Commission 2025 M Street, N.W., Room 7002 Washington, D.C. 20554</p> <p>* Sandra Danner, Deputy Chief Commercial Wireless Division Wireless Telecommunications Bureau Federal Communications Commission 2025 M Street, N.W., Room 7002 Washington, D.C. 20554</p> <p>* Ramona Melson, Chief Legal Branch Commercial Wireless Division Wireless Telecommunications Bureau Federal Communications Commission 2025 M Street, N.W., Room 7130-H Washington, D.C. 20554</p> <p>* Regina Keeney, Chief Common Carrier Bureau Federal Communications Commission 1919 M Street, N.W., Room 500 Washington, D.C. 20554</p> <p>Sheldon Moss PCIA 500 Montgomery Street Suite 700 Alexandria, VA 22314</p>
--	---

Alecia Clemens
Executive Director
SMR WON
P.O. Box 1922
Covington, LA 70434-1922

Robert S. Foosaner
Senior Vice President
Government Affairs
Nextel Communications, Inc.
800 Connecticut Avenue, N.W.
Suite 1001
Washington, D.C. 20006

Michael S. Hirsch
Geotek Communications, Inc.
1200 19th Street, N.W.
Suite 560
Washington, D.C. 20036

Mary E. Brooner, Esq.
Sr. Manager
Wireless Regulatory Affairs
Motorola, Inc.
1350 I Street, N.W.
Suite 400
Washington, D.C. 20005


Linda J. Evans

*Via Hand Delivery